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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/685,280
Filing Date: October 14, 2003
Appellant(s): HIRSCHBURGER ET AL.

Roger D. Greer
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 7/28/08 appealing from the Office action
mailed 3/24/08.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

2002/0158604 Smith 05-2002

4,835,409 Bhagwat et al. 02-1988

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1-2,5-6,12-14,16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith ("2002/0158604") and Bhagwat et al. (US 4,835,409).

Re claim 1, Smith disclose an apparatus ("fig.1-6") comprising: a housing having a number of walls, a top and a bottom ("fig.1-2/ housing with varying walls include top and bottom"); a charger located in said housing for charging a removable battery pack of the type which is used to power rechargeable hand tools and other tools ("fig.5/(43,60); page 2[0036] line 4-7"); a receptacle operably connected to said charger and being capable of receiving a removable battery pack to be charged by said charger ("fig.6"); an audio unit for producing an audio signal located in said housing ("fig.5/(44); fig.1/in here the housing comprising (charger and radio)") a cord and plug for connecting said apparatus to a source of AC power and a first

circuit for connecting said cord to said charger and said audio unit, whereby AC power is applied to said audio unit to power the same and AC power is also applied to said charger ("fig.5(40-41); page 2[0030] and more specifically circuit (40)"); a relay connected in circuit between a battery pack located in said receptacle and said audio unit; a relay connected in circuit between said cord and said audio unit ("fig.5(42)").

However, Smith fail to disclose of the specific of relay coil connected in circuit between said cord and said audio unit, said coil monitoring the presence of AC power being applied to said audio unit and causing said relay to open circuit and electrically isolating said audio unit from said battery when AC power is applied to said audio unit and close circuit when AC power is not applied to said audio unit, thereby enabling said battery pack to power said audio unit when AC power is not applied thereto. However, Bhagwat et al. disclose of the system device wherein the similar concept of having relay coil connected in circuit between power cord and a power motor device, and said coil monitoring the presence of AC power being applied to said power motor device and causing said relay to open circuit and isolate said audio unit from said battery when AC power is applied to said device and close circuit when AC power is not applied to said device, thereby enabling said battery pack to power said audio unit when AC power is not applied thereto (Fig.4 wt (76,k1,22,52); col.5 line 30-60) for the purpose of automatically enabling the high power dual mode power supply in high efficiency circuit for meeting the current

demand of the compact battery device. Thus, taking the combined teaching of Smith and now Bhagwat et al. as a whole, it would have been obvious for one of the ordinary skill in the art at the time of the invention to have incorporated the relay coil connected in circuit between said cord and said device unit , said coil monitoring the presence of AC power being applied to said audio device unit and causing said relay to open circuit and electrically isolating said audio unit from said battery when AC power is applied to said audio unit and close circuit when AC power is not applied to said audio unit, thereby enabling said battery pack to power said audio unit when AC power is not applied thereto for the purpose automatically enabling the high power dual mode power supply in high efficiency circuit for meeting the current demand of the compact internal battery device.

Re claim 2, the apparatus as defined in claim 1 further including at least one AC power receptacle connected in said first circuit so that AC power can be provided to said receptacle when said cord and plug is connected to a source of AC power ("fig.5= switch circuit (40) with receptacle of AC Power plug (41)").

Re claim 5, the apparatus as defined in claim 1 wherein said audio unit comprises a radio ("fig.5/44").

Re claim 6, the apparatus as defined in claim 5 wherein said audio unit further comprises a CD player ("page 2[0034]").

Re claim 12, the apparatus as defined in claim 1 wherein said audio unit has operating controls ("fig.1/(15-17)") and displays located in a front wall of said housing ("fig.1/displays located in front") .

Re claim 13, the apparatus as defined in claim 1 further comprising an access door located in a rear wall for accessing a chamber that includes a receptacle for receiving a battery pack for charging by said charger ("fig.6") .

Re claim 14, the apparatus as defined in claim 2 wherein said at least one AC power receptacle is located in a first side wall ("fig.5/with power on side wall") .

Re claim 16, the apparatus as defined in claim 1 wherein said top has a recess therein with a bridging portion extending across said recess and forming a handle for carrying said apparatus ("fig.1/remote location to carry or handle the apparatus") .

12. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over unpatentable by Smith ("2002/0158604") and Bhagwat et al. (US 4,835,409) and further in view of Stanesti et al. ("2004/0155627 A1").

Re claim 3, the apparatus as defined in claim 1 with the first circuit, However, Smith fail to disclose of the further limitation including an AC to DC converter connected in said first circuit and at least one DC power receptacle connected to said converter. However, Stanesti et al. disclose of a selector circuit for which the further limitation including an AC to DC converter connected in said first circuit and at least one DC power receptacle connected to said converter ("fig.2; page 2[0025]") for the purpose of enabling the recharging by providing DC current to the plurality of batteries. Thus, taking the combined teaching of Smith and Stanesti et al. as a whole, it would have been obvious for one of the ordinary skill in the art to modify Smith by incorporating the circuit with the further limitation including an AC to DC converter connected in said first circuit and at least one DC power receptacle connected to said converter for the purpose of enabling the recharging by providing DC current to the plurality of batteries as disclose by Stanesti et al.

13. Claims 7-8, 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over unpatentable by Smith ("2002/0158604") and Bhagwat et al. (US 4,835,409) and further in view of Kelly et al. ("6,921,596").

Re claim 17, Smith disclose of An audio power unit for providing an audio output and for charging removable battery packs ("fig.1-6") ,

said unit comprising: a charger including a receptacle located in said housing for charging the removable battery ("fig.5/(43,60); page 2[0036] line 4-7;fig.6"); an audio unit for producing an audio signal located in said housing ("fig.5/(44); fig.1/in here the housing comprising (charger and radio)"), the cord and plug for connecting said apparatus to a source of AC power ("fig.5(40-41)") and a circuit for connecting said cord to said charger and said audio unit, whereby AC power is applied to said audio unit to power the same and AC power is also applied to said charger ("fig.5(40-41,43,44)).

However, Smith fail to disclose of the circuit isolating said audio unit from said battery pack when AC power is applied to said audio unit and connecting said battery pack to power said audio unit when AC power is not applied to said audio unit. However, Bhagwat et al. disclose of the system device wherein the similar concept of having the circuit isolating a motor device unit from said battery pack when AC power is applied to said device unit and connecting said battery pack to power said device unit when AC power is not applied to said motor unit (Fig.4 wt (76,k1,22,52); col.5 line 30-60) for the purpose of high power dual mode power supply in high efficiency circuit for meeting the current demand of the compact internal battery device.

While, the combined teaching of Smith and Bhagwat et al. as a whole, fail to disclose of the further limitation of the housing a

housing having a generally cuboid shape with front, rear, left and right and side walls, a top and a bottom. But, Kelly et al. disclose a system in which housing have a generally cuboid shape with front, rear, left and right and side walls, a top and a bottom ("fig.3") for the purpose of enabling ease of fabrication. Thus taking the combine teaching of Smith and Bhagwat now Kelly et al. as a whole, it would have been obvious for one of the ordinary skill in the art to modify Smith by incorporating the housing have a generally cuboid shape with front, rear, left and right and side walls, a top and a bottom for the purpose of enabling ease of fabrication.

Re claim 18, the audio power unit as defined in claim 17 wherein said circuit further comprises: a relay connected in circuit between a battery pack located in said receptacle and said audio unit; and a relay coil connected between said cord and said audio unit, said coil monitoring the presence of AC power being applied to said audio unit and causing said relay to open circuit and isolate said audio unit from said battery pack when AC power is applied to said audio unit and close circuit when AC power is not applied to said audio unit, thereby enabling said battery pack to power said audio unit when AC power is not applied thereto ("page 2[0031]/with relay and close switch I power (40) for choosing which source need current in between charger an radio").

Re claim 7, the apparatus as defined in claim 1 with a shape ("fig.1-2"), however, Smith and Bhagwat as a whole, fail to disclose the further limitation wherein said housing has a generally cuboid shape. But, Kelly et al. disclose a system in which housing have a generally cuboid shape ("fig.3") for the purpose of enabling ease of fabrication. Thus taking the combine teaching of Smith and Bhagwat and now Kelly et al. as a whole, it would have been obvious for one of the ordinary skill in the art to modify smith by incorporating the housing have a generally cuboid shape for the purpose of enabling ease of fabrication.

Re claim 8, has also been analyzed and rejected with respect to claim 7.

14. Claims 9-11, 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over unpatentable by Smith ("2002/0158604") and Bhagwat et al. (US 4,835,409) and further in view of Kellly et al.("6,921,596") and further in view of Furusho et al. (US D479,223).

Re claim 9, Smith disclose of the apparatus as defined in claim 7 further comprising a frame structure, However, the combined teaching of Smith and Bhagwat et al. and Kelly et al. as a whole, fail to disclose of the further limitation of the frame structure that is in

the shape of an open faced cuboid, with each leg being connected to two other legs at right angles, said frame structure being larger than said housing and being attached thereto at multiple connection points, said frame structure providing protection for said housing. However, Furusho et al. disclose of a system with the similar concept wherein the frame structure that is in the shape of an open faced cuboid, with each leg being connected to two other legs at right angles, said frame structure being larger than said housing and being attached thereto at multiple connection points, said frame structure providing protection for said housing (fig.1-7) for the purpose of providing a protective cage for the radio in case of accident and easy transportation. thus taking the combined teaching of Smith and Furusho et al. as a whole, it would have been obvious for one of the ordinary skill in the art to have modify Smith by incorporating the similar concept wherein the frame structure that is in the shape of an open faced cuboid, with each leg being connected to two other legs at right angles, said frame structure being larger than said housing and being attached thereto at multiple connection points, said frame structure providing protection for said housing for the purpose of providing a protective cage for the radio in case of accident and easy transportation.

Re claim 10, the apparatus as defined in claimed 9 with the cylindrical frame, However, the combined teaching of Smith and Bhagwat et al. and Kelly et al. as a whole, fail to disclose of the specific

wherein the elongated frame members are connected at an eight corners. However, official notice is taken the concept of specifically having the elongated frame members are connected at an eight corners is simply the inventor's preference, thus it would have been obvious for one of the ordinary skill in the art, at the time of the invention to have modify the combined teaching of Smith and Bhagwat et al. and Kelly et al. as a whole, by incorporating the specific wherein the elongated frame members are connected at an eight corners for reinforcing the stability to the system.

Similarly claims 11 has been analyzed and rejected with respect to claim 10 above.

Re claims 19-21 have been analyzed and rejected with respect to claims 9-11 Respectively.

15. Claim 4 rejected under 35 U.S.C. 103(a) as being unpatentable over unpatentable by Smith ("2002/0158604") and Bhagwat et al. (US 4,835,409) and further in view of Nee ("5,272,431").

Re claim 4, the apparatus as defined in claim 2, However Smith and Bhagwat et al. as a whole, fail to disclose of the further including a ground fault circuit interrupter connected in said first circuit between said at least one AC power receptacle and said cord. But, Nee disclose of a system in which the further including a ground

fault circuit interrupter connected in said first circuit between said at least one AC power receptacle and said cord ("fig. 9; col. 5 line 61-67") for the purpose of enabling the shutting of electrical supply to the outlet in case of occurring of spike current. Thus, taking the combined teaching of Smith and Bhagwat et al. and now Nee as a whole, it would have been obvious for one of the ordinary skill in the art to modify Smith by incorporating the further including a ground fault circuit interrupter connected in said first circuit between said at least one AC power receptacle and said cord for the purpose of enabling the shutting of electrical supply to the outlet in case of occurring of spike current as taught by Nee.

16. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over unpatentable by Smith ("2002/0158604") and Bhagwat et al. (US 4,835,409) and further in view of Kirk ("2003/0169896").

Re claim 15, the apparatus as defined in claim 1, However, Smith and Bhagwat et al. as a whole, fail to disclose of the further limitation wherein said cord and plug extend from a second side wall, said apparatus further including a cord wrap structure on said second side wall. But, Kirk disclose of system in which the further limitation wherein said cord and plug extend from a second side wall, said apparatus further including a cord wrap structure on said second

side wall ("fig.1") for the purpose of providing the appearance and avoid leaving the audio cord or wire dangling in a loose manner by its full length. Thus, taking the combined teaching of Smith and Bhagwat et al. and Kirk et al. as a whole, it would have been obvious for one of the ordinary skill in the art to modify Smith by incorporating the further limitation wherein said cord and plug extend from a second side wall, said apparatus further including a cord wrap structure on said second side wall for the purpose of providing the appearance and avoid leaving the audio cord or wire dangling in a loose manner by its full length.

(10) Response to Argument

Appellant's arguments filed 8/29/2008 have been fully considered but they are not persuasive.

Appellant essentially argued on page 9-13 of the Brief that the combined teaching of Smith and Bhagwat et al. fails to disclose or suggest the claimed features of the "electrically isolating the device from said battery when AC power is applied". But, Bhagwat et al. does disclose of the similar feature as claimed: " electrically isolating the device from said battery when AC power is applied "(fig.4; col.5 line 30-60/ relay to isolate battery from unit system when power is applied with the contact switch being at NO, with device of vacuum replaced with audio) as claimed, furthermore the appellant argue of the combination of Smith and Bhagwat et al. as a whole, please note Bhagwat et al. disclose of the above, for enabling the user to automatically enabling the

high power dual mode power supply in high efficiency circuit for meeting the current demand of the compact battery device.

In regard to the Appellant argument wherein being improper to combine Smith and Bhagwat et al., it is noted that while, Smith does not disclose of the "electrically isolating the device from said battery when AC power is applied", however, it should be noted that Bhagwat et al. is *pertinent to the particular problem concerned in the power unit*, In this case, automatically enabling the high power dual mode power supply in high efficiency circuit for meeting the current demand of the compact battery device.

For the above reasons, it is believed that the rejections should be sustained.

As these are the totality of arguments presented, and they have been found unpersuasive, the existing final rejection of 3/24/08 is deemed appropriate.

For the above reasons, it is believed that the rejections should be sustained. Respectfully

submitted

/D. P./

Examiner, Art Unit 2614

Conferee:

/Vivian Chin/

Supervisory Patent Examiner, Art Unit 2614

/CURTIS KUNTZ/

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